



# PUBLIC NOTICE

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## TOWER CONSTRUCTION GUIDANCE WITHIN THE AMERICAN BURYING BEETLE'S OKLAHOMA RANGE

On January 2, 2020, the U.S. Fish and Wildlife Service (USFWS) released a Programmatic Biological Opinion (PBO)<sup>1</sup> on the proposed construction of communications facilities within the Oklahoma range of the endangered American burying beetle (*Nicrophorus americanus*). The PBO completes formal consultation for the American burying beetle in Oklahoma for most proposed communications facility projects and streamlines the environmental review process.<sup>2</sup> Accordingly, the Wireless Telecommunications Bureau (WTB) provides the following guidance for applicants to comply with the Endangered Species Act for proposed facilities covered under the PBO.

The American burying beetle is a large orange and black nocturnal beetle that uses a diversity of vegetation types including native grasslands, grazed pastures, riparian zones, and forests.<sup>3</sup> USFWS listed it as endangered in 1989 and devised a recovery plan in 1991. This PBO applies to the species' 45-county Oklahoma range in the eastern portion of the state.

### Obligations

Applicants for proposed communications facilities within Oklahoma's American burying beetle's range must attach to its environmental assessment (EA) a completed Appendix A of the PBO, "Assessment, Eligibility, and Mitigation for the Telecommunications Facilities Programmatic Biological Opinion in Oklahoma," which is available on FWS's website: [https://www.fws.gov/southwest/es/Oklahoma/Documents/TE\\_Species/20191213\\_ABB%20FCC%20Programmatic%20FINAL%20APPENDIX\\_Form.pdf](https://www.fws.gov/southwest/es/Oklahoma/Documents/TE_Species/20191213_ABB%20FCC%20Programmatic%20FINAL%20APPENDIX_Form.pdf). The Species Assessment and Eligibility Determination will help applicants determine whether their projects may be covered under the PBO. If applicants determine that a proposed project is not eligible for coverage, recommendations are provided in the PBO to assist with Endangered Species Act compliance. If applicants determine that a project is eligible for coverage, the completed form must be submitted to Joelle Gehring at [Joelle.Gehring@fcc.gov](mailto:Joelle.Gehring@fcc.gov) for initial

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<sup>1</sup> A PBO is the USFWS's opinion on whether multiple, related projects are likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The PBO is available on FWS's website,

[https://www.fws.gov/southwest/es/Oklahoma/Documents/TE\\_Species/FinalSigned%20ABB%20FCC%20Programmatic%20BO%202Jan2020\\_corr.pdf](https://www.fws.gov/southwest/es/Oklahoma/Documents/TE_Species/FinalSigned%20ABB%20FCC%20Programmatic%20BO%202Jan2020_corr.pdf).

<sup>2</sup> Prior to USFWS issuance of the PBO, applicants and the FCC entered into formal consultation with the USFWS for each proposed project that the USFWS determined would have adverse effects on the American burying beetle.

<sup>3</sup> Although the American burying beetle once was found throughout most of the temperate portions of eastern North America, it now is limited to less than 10% of its historic range. Populations have been documented in Rhode Island, Oklahoma, Arkansas, Nebraska, Kansas, South Dakota, Texas, Massachusetts, and Missouri. For more information on the American burying beetle see [American Burying Beetle Factsheet](#).

review.

Once WTB has completed its review of the proposed project, it will coordinate with the USFWS-Oklahoma Ecological Services Field Office (OFO) for review. If the USFWS-OFO approves a project and the FCC determines that the proposed action warrants a Finding of No Significant Impact, approval will be conditioned on the applicant's complying with the terms and conditions listed in the PBO, including implementation of associated conservation measures. If WTB or USFWS-OFO finds that a proposed communications facility does not meet the criteria of the PBO (e.g., that it will disturb more than five acres and/or that it will be taller than 500 feet above ground level), applicants may be required to seek additional consultation with USFWS pursuant to Section 7 of the Endangered Species Act as a "designated non-Federal entity."<sup>4</sup>

For further information, contact Joelle Gehring, Biologist, Federal Communications Commission, (202) 270-4435, [Joelle.Gehring@FCC.gov](mailto:Joelle.Gehring@FCC.gov).

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<sup>4</sup> More information on this process is available at FWS's website, [https://www.fws.gov/southwest/es/Oklahoma/Project\\_Reviews\\_ComTower.htm](https://www.fws.gov/southwest/es/Oklahoma/Project_Reviews_ComTower.htm).